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HAWAII DEPARTMENT OF TRANSPORTATION;
and FORD FUCHIGAMI, DIRECTOR OF HAWAII
DEPARTMENT OF TRANSPORTATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HUI HO‘OMALU I KA ‘AINA,
CONSERVATION COUNCIL FOR
HAWAII; and CENTER FOR
BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

HAWAII DEPARTMENT OF
TRANSPORTATION; FORD
FUCHIGAMI, DIRECTOR OF
HAWAII DEPARTMENT OF
TRANSPORTATION

Defendants.

Civil No. 17-00423-ACK-RLP

**DEFENDANTS’ NOTICE OF
MOTION AND MOTION TO
DISMISS PLAINTIFFS’ AMENDED
COMPLAINT**

Action Filed: August 23, 2017
Judge: Hon. Alan C. Kay

NOTICE OF MOTION AND MOTION TO DISMISS

PLEASE TAKE NOTICE that as soon as counsel may be heard in the courtroom of Judge Alan C. Kay, located at 300 Ala Moana Blvd C-338, Honolulu, Hawaii 96850, Defendants Hawai‘i Department of Transportation (HDOT) and Ford Fuchigami, Director of HDOT (together “Defendants”) will and do move the Court for an order dismissing the Amended Complaint for Declaratory Relief and Injunctive Relief (“Amended Complaint”) filed by Plaintiffs Hui Ho‘omalu i Ka ‘Āina, Conservation Council for Hawai‘i, and Center for Biological Diversity (“Plaintiffs”) on the basis that Plaintiffs have failed to establish subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1).

Defendants base this motion on this notice of motion, the supporting memorandum of points and authorities, supporting declaration, and such other evidence and arguments as Defendants may present on reply and at oral argument.

Dated: September 22, 2017

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Ella Foley Gannon
Ella Foley Gannon

Attorneys for Defendants
HAWAII DEPARTMENT OF
TRANSPORTATION; FORD
FUCHIGAMI, DIRECTOR OF
HAWAII DEPARTMENT OF
TRANSPORTATION

Re: Hui Ho`omalu i Ka `Aina v. Department of Transportation, State of Hawaii
Case Number: 1:17-cv-00423-ACK-RLP

PROOF OF SERVICE BY CM/ECF ELECTRONIC FILING

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is One Market, Spear Street Tower, San Francisco, CA 94105-1596.

On September 22, 2017, I served a copy of the within documents:

**DEFENDANTS' NOTICE OF MOTION AND
MOTION TO DISMISS PLAINTIFFS' AMENDED
COMPLAINT**

I caused the above documents to be transmitted to the office(s) of the addressee(s) listed below by electronic mail at the e-mail address(es) set forth below pursuant to Fed.R.Civ.P.5(d)(1). "A Notice of Electronic Filing (NEF) is generated automatically by the ECF system upon completion of an electronic filing. The NEF, when e-mailed to the e-mail address of record in the case, shall constitute the proof of service as required by Fed.R.Civ.P.5(d)(1). A copy of the NEF shall be attached to any document served in the traditional manner upon any party appearing pro se."

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Executed on September 22, 2017, at San Francisco, California.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Marilyn K. Hom